

AMENDED IN ASSEMBLY APRIL 23, 1996
AMENDED IN ASSEMBLY MARCH 20, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2331

**Introduced by Assembly Member Goldsmith
(Coauthor: Assembly Member Alpert)**

February 15, 1996

An act to amend Section 594 of the Penal Code, and to amend Section 13202.6 of the Vehicle Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2331, as amended, Goldsmith. Crime: graffiti.

(1) Existing law provides that any person who defaces with graffiti real or personal property not his or her own where the amount of defacement is \$400 or more but less than \$5,000 is guilty of a misdemeanor and is punishable by imprisonment in a county jail not exceeding one year, or by a fine of \$5,000, or by both that fine and imprisonment.

This bill would make this offense a felony or a misdemeanor. A person who violates the above provision and is convicted of a felony would be punishable by 16 months or 2 or 3 years in state prison. *By increasing the penalty for a crime this bill would create a state-mandated local program.*

(2) Existing law authorizes a court to suspend for one year the driving privilege of a person convicted of violating the above graffiti provision.

This bill would instead require the court to suspend for one year the driving privilege of a person convicted of violating the above graffiti provision. ~~The bill would make conforming changes to a related provision.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 594 of the Penal Code is
2 amended to read:

3 594. (a) Every person who maliciously commits any
4 of the following acts with respect to any real or personal
5 property not his or her own, in cases other than those
6 specified by state law, is guilty of vandalism:

7 (1) Defaces with graffiti or other inscribed material.

8 (2) Damages.

9 (3) Destroys.

10 Whenever a person violates this subdivision with
11 respect to real property, vehicles, signs, fixtures, or
12 furnishings belonging to any public entity, as defined by
13 Section 811.2 of the Government Code, or the federal
14 government, it shall be a permissive inference that the
15 person neither owned the property nor had the
16 permission of the owner to deface, damage, or destroy the
17 property.

18 (b) (1) If the amount of defacement, damage, or
19 destruction is fifty thousand dollars (\$50,000) or more,
20 vandalism is punishable by imprisonment in the state
21 prison or in a county jail not exceeding one year, or by a
22 fine of not more than fifty thousand dollars (\$50,000), or
23 by both that fine and imprisonment.

24 (2) If the amount of defacement, damage, or
25 destruction is five thousand dollars (\$5,000) or more but

1 less than fifty thousand dollars (\$50,000), vandalism is
2 punishable by imprisonment in the state prison, or in a
3 county jail not exceeding one year, or by a fine of not
4 more than ten thousand dollars (\$10,000), or by both that
5 fine and imprisonment.

6 (3) (A) Except as provided in subparagraph (B), if
7 the amount of defacement, damage, or destruction is four
8 hundred dollars (\$400) or more but less than five
9 thousand dollars (\$5,000), vandalism is punishable by
10 imprisonment in a county jail not exceeding one year, or
11 by a fine of five thousand dollars (\$5,000), or by both that
12 fine and imprisonment.

13 (B) Notwithstanding subparagraph (A), if the
14 vandalism consists of defacing property with graffiti or
15 other inscribed materials and the amount of defacement
16 is four hundred dollars (\$400) or more but less than five
17 thousand dollars (\$5,000), the vandalism is punishable by
18 imprisonment in the state prison or in a county jail not
19 exceeding one year, or by a fine of five thousand dollars
20 (\$5,000), or by both that fine and imprisonment.

21 (4) If the amount of defacement, damage, or
22 destruction is less than four hundred dollars (\$400),
23 vandalism is punishable by imprisonment in a county jail
24 for not more than six months, or by a fine of not more than
25 one thousand dollars (\$1,000), or by both that fine and
26 imprisonment.

27 (c) Upon conviction of any person under this section
28 for acts of vandalism consisting of defacing property with
29 graffiti or other inscribed materials, the court may, in
30 addition to any punishment imposed under subdivision
31 (b), at the victim's option, order the defendant to clean
32 up, repair, or replace the damaged property himself or
33 herself, or to pay for someone else to do so.

34 (d) If a minor is personally unable to pay a fine levied
35 for acts prohibited by this section, the parent of that
36 minor shall be liable for payment of the fine. A court may
37 waive payment of the fine or any part thereof by the
38 parent upon a finding of good cause.

39 (e) As used in this section, the term "graffiti or other
40 inscribed material" includes any unauthorized

1 inscription, word, figure, mark, or design that is written,
2 marked, etched, scratched, drawn, or painted on real or
3 personal property.

4 SEC. 2. Section 13202.6 of the Vehicle Code is
5 amended to read:

6 13202.6. (a) (1) For every conviction of a person for
7 a violation of Section 594, 594.3, or 594.4 of the Penal Code,
8 committed while the person was 13 years of age or older,
9 the court shall suspend the person's driving privilege for
10 one year. If the person convicted does not yet have the
11 privilege to drive, the court shall order the department
12 to delay issuing the privilege to drive for one year
13 subsequent to the time the person becomes legally
14 eligible to drive. However, if there is no further
15 conviction for violating Section 594, 594.3, or 594.4 of the
16 Penal Code in a 12-month period after the conviction, the
17 court, upon petition of the person affected, may modify
18 the order imposing the delay of the privilege. For each
19 successive offense, the court shall suspend the person's
20 driving privilege for those possessing a license or delay
21 the eligibility for those not in possession of a license at the
22 time of their conviction for one additional year.

23 (2) Any person whose driving privilege is suspended
24 or delayed for an act involving vandalism in violation of
25 Section 594, 594.3, or 594.4 of the Penal Code, may elect
26 to reduce the period of suspension or delay imposed by
27 the court by performing community service under the
28 supervision of the probation department. The period of
29 suspension or delay ordered under paragraph (1) shall be
30 reduced at the rate of one day for each hour of
31 community service performed. For purposes of this
32 paragraph, "community service" means cleaning up
33 graffiti from any public property, including public transit
34 vehicles.

35 (3) As used in this section, the term "conviction"
36 includes the findings in juvenile proceedings specified in
37 Section 13105.

38 (b) (1) Whenever the court suspends driving
39 privileges pursuant to subdivision (a), the court in which
40 the conviction is had shall require all drivers' licenses held

1 by the person to be surrendered to the court. The court
2 shall, within 10 days following the conviction, transmit a
3 certified abstract of the conviction, together with any
4 drivers' licenses surrendered, to the department.

5 (2) Violations of restrictions imposed pursuant to this
6 section are subject to Section 14603.

7 (c) *When the court is considering suspending or*
8 *delaying driving privileges pursuant to subdivision (a),*
9 *the court shall consider if a personal or family hardship*
10 *exists that requires the person to have a driver's license*
11 *for his or her own, or a member of his or her family's*
12 *employment or medically related purposes.*

13 (d) The suspension, restriction, or delay of driving
14 privileges pursuant to this section shall be in addition to
15 any penalty imposed upon conviction of any violation of
16 Section 594, 594.3, or 594.4 of the Penal Code.

17 *SEC. 3. No reimbursement is required by this act*
18 *pursuant to Section 6 of Article XIII B of the California*
19 *Constitution because the only costs that may be incurred*
20 *by a local agency or school district will be incurred*
21 *because this act creates a new crime or infraction,*
22 *eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section*
24 *17556 of the Government Code, or changes the definition*
25 *of a crime within the meaning of Section 6 of Article*
26 *XIII B of the California Constitution.*

27 *Notwithstanding Section 17580 of the Government*
28 *Code, unless otherwise specified, the provisions of this act*
29 *shall become operative on the same date that the act*
30 *takes effect pursuant to the California Constitution.*